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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,704	11/17/2003	Paul S. Wike		5401

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EXAMINER

LE, MARK T

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,704

Applicant(s)

WIKE, PAUL S.

Examiner

Mark T. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/17/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 13, 18, 25, 26 and 28-33 is/are rejected.
- 7) ☒ Claim(s) 8-12, 14-17 and 19-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's election without traverse of Group I, claims 1-26 and 28-33, in the reply filed on September 17, 2004, is acknowledged.
2. The abstract of the disclosure is objected to because legal phraseologies, such as "said"/"means", should not be used. Correction is required. See MPEP § 608.01(b).
3. In claims 1 and 28, line 2, "of the kind" should be deleted because it is not clear as to what structures are covered under the instant claimed kind.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 7, 13 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wike (US 5,918,546).

Wike discloses a linear steering truck apparatus having all the features recited in the instant claims, including means for performing car body steering; wherein, the geometries of pivot points in the forms of a parallelogram and a trapezoid are shown in Figure 28 of Wike.

6. Claims 28-29 and 32-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Stucki (US 817,406).

Stucki discloses a truck apparatus having all the features as recited in the instant claims, including side bearings, as shown in Figure 3 of Stucki, that are arranged as claimed.

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike (US 5,918,546).

Wike is applied above.

High strength ferrous castings are common in the making railway truck components (Official Notice is taken). In view of Wike, it would have been obvious to one skilled in the art to cast the bolster and pedestal of Wike with a high strength ferrous material so as to achieve the expected high strength thereof.

As to the instant claimed lost foam process, note that a process of making is generally not patentably significant in an apparatus claim.

9. Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stucki (US 817,406).

Stucki is applied above.

High strength ferrous castings are common in making railway truck components (Official Notice is taken). In view of Stucki, it would have been obvious to one skilled in the art to cast the bolster and pedestal of Stucki with a high strength ferrous material so as to achieve the expected high strength thereof.

As to the instant claimed lost foam process, note that a process of making is generally not patentably significant in an apparatus claim.

10. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike (US 5,918,546) in view of Stucki (US 817,406).

Wike is applied above.

Regarding the instant claimed side bearings, as recited in instant claims 2-4, note for example, the side bearings of Stucki. It would have been obvious to one skilled in the art to provide side bearings, e.g. similar to that taught by Stucki, in the railway truck of Wike for enhancing load distributions and facilitating pivotal movement of the car truck relative to the car body.

11. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wike (US 5,918,546) in view of Mulcahy (US 4,413,569).

Wike is applied above.

Regarding the instant claimed means for maintaining full brake shoe contact on a wheel when brakes are applied, as recited in claim 25, consider the brake assembly of Mulcahy. In view of Mulcahy, it would have been obvious to one skilled in the art to provide a brake assembly, similar to that taught by Mulcahy, in the structure of Wike for providing appropriate braking when needed.

12. Claims 8-12, 14-17, 19-24 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 703-308-3663. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark T. Le
Primary Examiner
Art Unit 3617

mle
10/12/04